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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,575	02/01/2002	Lionel L. Brightwell	24683	9683

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EXAMINER
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KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/061,575

Applicant(s)

BRIGHTWELL ET AL.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-13, 16-21, 24-27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,748,780 to Vinther.

Regarding claims 1, 16, 18, 20, 24 and 26, Vinther discloses a wood board (column 1, lines 29-30) having a protective end cap (fig. 9b: 12j) wherein the sides of the cap taper (fig. 9b: 17j) as they extend from the spin of the cap.

Regarding claims 2, 19 and 25, Vinther discloses the internal diameter of the cap as increasing as the sides of the cap taper.

Regarding claim 3, Vinther discloses the cap as substantially engaging the board.

Regarding claims 4 and 27, Vinther discloses the distal end of the board as being shaped.

Regarding claim 5, Vinther discloses a corner of the board as being removed (fig. 9b: near number 22)

Regarding claim 6, Vinther discloses the top and bottom edge of the board as being tapered (fig. 9b).

Regarding claim 7, Vinther discloses the cap as having a generally concave shape (fig. 9b).

Regarding claims 8 and 9, Vinther discloses the use of a continuous adhesive (column 7, lines 18-20).

Regarding claims 11 and 29, Vinther discloses the use of veneers (column 1, lines 39-40).

Regarding claims 12 and 17, Vinther discloses the use of plastic for the cap (column 1, lines 38-41 & column 2, lines 4-7).

Regarding claim 13, Vinther discloses a preformed cap.

Regarding claim 21, Vinther discloses a smooth surface from cap to board (fig. 9b).

Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,169,201 to Gower.

Regarding claim 22, Gower discloses an endcap comprised of a "C" shaped plastic channel (fig. 1: 48).

Regarding claim 23, Gower discloses a concave curvature to the endcap (fig. 1: 48).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,748,780 to Vinther.

Regarding claims 10 and 28, Vinther does not particularly state that the board is a scaffold plank. However, scaffold planks may be constructed from wood boards. Since Vinther discloses a wood board, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the board disclosed by Vinther as a scaffold plank.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,748,780 to Vinther in view of U.S. Patent No. Des. 405,194 to Kenkel.

Regarding claim 14, Vinther does not disclose the cap as being extruded. Kenkel discloses an extruded cap for door edging (title). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Vinther by using an extruded cap as disclosed by kenkel in order to speed production.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,748,780 to Vinther in view of U.S. Patent No. 5,605,238 to Jacobs.

Regarding claim 15, Vinther does not disclose the cap as being injection molded. Jacobs discloses a shelving system having injection molded components (column 4, lines 35-37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Vinther by using injection molded components as disclosed by Jacobs in order to increase the strength and durability.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


The cited patents listed on the included form PTO-892 further show the state of the art with respect to end caps in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK

8/18/03

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600